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ARIZONA ATTORNEY GENERAL

May 6, 1953
Opinion No. 53-91

TO: Dines Nelson, Colonel, CAP Commanding
Headquarters Arizona Wing
Civil Air Patrol - USAF
Davis-Monthan Air Force Base
Tucson, Arizona

RE: Whether executive head of a department
of the state has authority to regulate
hours of work, accumulation of leave,
sick leave, and vacation time; recogni-
tion of statutory holidays; other
regulations regarding adult female
clerical employment.

QUESTION: As delineated below.

Point 1: As Head of the Department, am I empowered to set
the number of hours to be worked per week; and if
so, within what limits.

Section 56-320 A.C.A. 1939, reads in part as follows:

"56-320. Hours of labor for females in certain
occupations. --~~posting~~ Penalty. -- No employer,
employing females in any labor other than
domestic work, shall employ or suffer any female
to work more than eight (8) hours in any one (1)
day nor more than forty-eight (48) hours in any
one (1) week, the eight (8) hours to be performed
in a period not to exceed thirteen (13) consecu-
tive hours, and every employer shall provide one
(1) full day of rest a week for all females in
his employ. The provisions of this section shall
not be construed to prohibit an adult woman who
has in any one (1) week been employed for not to
exceed six (6) hours a day, from being employed
for seven (7) days in such week; nor apply to
females employed in telephone or telegraph of-
fices or exchanges, or in railroad yard offices,
in which not more than three (3) females are em-
ployed, nor to female nurses; and in relation to

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hours of employment, shall not apply to or affect females engaged in harvesting, curing, canning or drying any variety of perishable fruit or vegetables, during such periods as may be necessary to harvest, cure, can or dry said fruit or vegetables in order to save the same from spoiling. * * *

It is the opinion of this office that an employer, the state or the heads of any of its political subdivisions or departments, can regulate the employment and the work of adult females, but such regulation of employment and work must come within the confines of the statutes set forth above.

Point 2: Leave or vacation time--how much and how accumulated.

After diligent research, it has been impossible for this office to unearth or discover any laws or limitations relating to vacation time or the accumulation thereof regarding state employees.

Apparently regulations regarding vacation time and its accumulation are policy matters to be determined by each individual, state or political subdivision or department thereof.

Point 3: Sick leave--how much and how accumulated.

See answer to Point 2 above.

Point 4: Holidays.

Sections 35-101, as amended, and 35-102 A.C.A. 1939, provide as follows:

"35-101. Holidays enumerated. --(a) Sunday of each week, and the first day of January, the twelfth day of February to be known as Lincoln Day, the fourteenth day of February to be known as Admission Day, the twenty-second day of February to be known as Washington's Birthday, the second Sunday in the month of May to be known as Mothers' Day, the thirtieth day of May to be known as Decoration Day, the third Sunday in the month of June to be known as Fathers' Day, the fourth day of July, the twenty-fifth day of December, the day upon which the general election is held, Thanksgiving Day, the first Monday in September to be

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known as Labor Day, the twelfth day of October to be known as Columbus Day, the eleventh day of November to be known as Armistice Day of each year shall be holidays.

(b) When any such holiday except Mothers' Day or Fathers' Day falls on a Sunday, the following Monday shall be observed as a holiday."

"35-102. Offices and courts closed--Judicial business that may be transacted.-- Public offices shall not be opened, and no court of justice shall be open, nor any judicial business be transacted on any legal holiday, except for the following purposes: To give upon their request, instructions to a jury when deliberating on its verdict; to receive a verdict or discharge a jury; for the exercise of the powers of a magistrate in a criminal action, or in a proceeding of a criminal nature; provided, that injunctions, attachments, claim and delivery and writs of prohibition may be issued and served on any day."

The holidays and their dates of occurrence are specifically set out in Section 35-101, supra. Section 35-102, supra, provides that public offices will not be opened on the holidays set forth in the preceding section. Since the Civil Air Patrol is a department of the state and the employees therein are state employees, the department head and his executives will have to recognize and comply with the above cited sections on official statutory holidays.

Point 5: Any other information you deem necessary to setting up this position properly.

Section 56-402 A.C.A. 1939, provides:

"56-402. Public policy.-- It is hereby declared to be against public policy for any employer to employ any woman or minor in an occupation in this state at any oppressive and unreasonable wage as defined in section 3 (§ 56-403) of this act, and any contract, agreement or understanding for, or in relation to such employment, shall be null and void."

Section 56-403 A.C.A. 1939, provides in part as follows:

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"'An oppressive and unreasonable wage' shall mean a wage which is both less than the fair and reasonable value of the services rendered and less than sufficient to meet the minimum cost of living necessary for health;

'A fair wage' shall mean a wage both fairly and reasonably commensurate with the value of the service or class of service rendered, and sufficient to meet the minimum cost of living necessary for health. In establishing a minimum fair wage for any service or class of service under this article, the commission, or the wage board without being bound by any technical rules of evidence or procedure (1.) shall take into account all relevant circumstances affecting the value of the service or class of service rendered, and (2.) shall be guided by like considerations as would guide a court in a suit for the reasonable value of services rendered where services are rendered at the request of an employer without contract as to the amount of the wage to be paid, and (3.) shall consider the wages paid in the state for work of like or comparable character by employers who voluntarily maintain minimum fair wage standards, and (4.) shall consider the minimum cost of living; * * *

Sections 56-402 and 56-403, supra, provide that women will be paid wages that are not oppressive and unreasonable. Neither Section 56-402 nor 56-403 set a standard figure for wages, but take many circumstances into consideration in determining a fair and reasonable wage. It is the opinion of this office that \$200.00 a month for secretary of the Civil Air Patrol is not unreasonable, oppressive or unfair.

ROSS F. JONES
The Attorney General

STEPHEN P. MOORHEAD
Assistant to the
Attorney General